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February 21, 2020

**VIA ELECTRONIC FILING**

The Honorable Jocelyn G. Boyd  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RE: Petition of Bridgestone Americas Tire Operations, LLC for an Order  
Compelling Dominion Energy South Carolina to Allow the Operation of  
a 1980 kW AC Solar Array as Authorized By State Law;  
Docket No. 2020-63-E

Dear Ms. Boyd:

On February 14, 2020, Bridgestone Americas Tire Operations, LLC ("BATO") filed a petition ("Petition") in the above-referenced docket, requesting that the Public Service Commission of South Carolina ("Commission") find that its 1980 kilowatt (kW) solar array ("Solar Array") constructed at its Graniteville facility in Aiken County, South Carolina, ("Aiken County Plant") is not subject to the South Carolina Generator Interconnection Procedures ("SCGIP") or alternatively, that the Commission issue an order waiving the requirements of the SCGIP on the operations of the Solar Array and requiring DESC to allow operation of the Solar Array.

**Summary of Argument**

The Commission may not simply grant BATO a waiver from all requirements of the SCGIP to "allow for a more expeditious resolution." Petition at ¶9. BATO has raised a jurisdictional argument that must first be resolved before the Commission may turn to the issue of whether a waiver should be granted and, if granted, how broad the waiver should be. Specifically, the issue presented is whether the interconnection and parallel operation of the Solar Array is state jurisdictional and subject to the SCGIP.

Should the Commission determine that the interconnection and parallel operation of the Solar Array is state jurisdictional and governed by the SCGIP, the Commission may, if it chooses to do so, issue BATO a waiver of the application of the SCGIP queueing requirements for the Solar Array. Although DESC does not support BATO's request for a waiver, DESC has been clear with BATO that DESC would expedite its review, perform the necessary studies, and proffer an interconnection

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agreement ("IA") that would allow BATO to operate upon execution and compliance with the terms of the IA should the Commission issue such a waiver.

On the other hand, if the Commission agrees with BATO that the interconnection and parallel operation of the Solar Array is not state jurisdictional and not subject to the terms of the SCGIP, federal jurisdiction would apply, and the interconnection and parallel operation of the Solar Array would be subject to the interconnection procedures of the Federal Energy Regulatory Commission ("FERC"). In such case, the Commission would be without authority to order DESC to allow operation of the Solar Array; only the FERC could make that determination.

In its Petition, BATO asserts that it is subject to no one and no standard. Put simply, the idea that the interconnection and parallel operation of an almost 2 MW system that will be electrically connected to the DESC system is not subject to any state or federal authorities or standards defies credulity. Because BATO's Aiken County Plant is itself electrically connected to the DESC system and because the Solar Array will operate in parallel with the DESC system, there is simply no path for BATO to operate its Solar Array without going through either the state or federal interconnection process. These processes are integral in safeguarding the safety and reliability of DESC's distribution and transmission system. The only way for BATO to avoid some type of interconnection process would be for BATO to disconnect its Aiken County Plant from the DESC system (or disconnect those facilities at the Aiken County Plant to which the Solar Array is to be electrically connected such that those facilities are no longer connected to the DESC system in any way).

### **Background**

As an initial matter, BATO asserts that DESC and BATO both agreed that "the Solar Array as designed was not subject to the [SCGIP]," implying that BATO moved forward with construction in reliance on this purported agreement. Petition at ¶6. The facts illustrate otherwise.

On January 30, 2018, DESC received from BATO an interconnection request for the interconnection and parallel operation of the Solar Array under the SCGIP. After receipt of BATO's deposit on February 5, 2018, DESC assigned BATO its SCGIP queue position of 375.<sup>1</sup> No later than May 11, 2018, DESC confirmed to BATO that the interconnection and parallel operation of the Solar Array was subject to the provisions of the SCGIP.

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<sup>1</sup> DESC initially thought that it might be able to expedite its review of the interconnection and parallel operation of the Solar Array, but ultimately concluded that such expedited review would be unfair and discriminatory to other projects in the interconnection queue.

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Only after submission of its interconnection request and deposit and with full knowledge of DESC's position that the SCGIP applied did BATO unilaterally decide to move forward "[i]n October of 2018" and "constructed a Solar Array at its [Aiken County Plant] at a cost of approximately \$2.7 million with a capacity of 1980 kW AC." See Petition at ¶4.

DESC has not yet completed a study of BATO's interconnection request due to the processing of requests from other projects ahead of BATO in the queue. DESC has not yet inspected the Solar Array as constructed, and DESC is not able to state that the Solar Array "was . . . constructed in accordance with the General Terms and Conditions, Specifications for Service and Meter Installations set out in the contract for electric service between BATO and DESC;" that the Solar Array "was constructed in compliance with all Federal, State and local codes as well as the regulations of the Commission;" and that the Solar Array, as constructed, provides adequate "protection and safekeeping of DESC's equipment and facilities." Based on the foregoing, DESC cannot agree with BATO's statement in Paragraph 5 of the Petition that "DESC representatives acknowledge that the Solar Array meets these requirements."

#### **1. The SCGIP applies to the Solar Array.**

The current version of the South Carolina Generator Interconnection Procedures ("SCGIP") was filed pursuant to S.C. Code Ann. § 58-27-460(A) (2015) and approved by the Commission in Order No. 2016-191 in Docket No. 2015-362-E. Section 1.1.1 of the SCGIP provides as follows:

This Standard contains the requirements . . . for the interconnection and parallel operation of Generating Facilities with Utility Systems in South Carolina. These procedures apply to Generating Facilities that are interconnecting to Utility Systems in South Carolina where the Interconnection Customer is not selling the output of its Generating Facility to an entity other than the Utility to which it is interconnecting.

The SCGIP applies to BATO here because the Solar Array is a Generating Facility that will interconnect and operate in parallel with DESC's system, and BATO is not selling the output of its Solar Facility to a third party (i.e., "an entity other than the Utility to which it is interconnecting"). BATO argues that the SCGIP does not apply because "[t]he Solar Array is not interconnected to DESC's transmission system and does not operate in parallel with DESC's system." Petition at ¶7. BATO's position reveals its lack of understanding as to how the electric system works and of what it means for a Solar Array to "interconnect" or "operate in parallel" with a utility's system. Parallel operation exists where there is any electric connection between a generator such as the Solar Array and the power delivery system of a utility such as DESC. As long as BATO's Aiken County Plant itself is connected to the DESC

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system, the Solar Array will be “interconnected” and “operate in parallel” with the DESC system and therefore has the potential to impact the DESC system. That BATO had to “install reverse power flow protection relays [to] prevent[] electricity from being inadvertently transmitted from the Solar Array to DESC’s equipment and facilities or to its distribution and transmission system” clearly demonstrates that the Solar Array is interconnected and operating in parallel with the DESC system. Further, as a technical matter, the reverse power flow protection relays do not “prevent” reverse flow; rather they engage upon detection of reverse flow and limit the duration of the reverse flow. Moreover, reverse power flow protection would not prevent the Solar Array from providing a transient response (e.g., fault current) to the DESC system in the event of a change from equilibrium or a steady state.

Perhaps recognizing the weakness of its position with respect to the language of the SCGIP, BATO turns to an equally flawed statutory argument that the Commission is without authority to apply the SCGIP to the Solar Array because S.C. Code Ann. § 58-27-460 “does not empower the Commission to regulate self-consuming energy facilities like the Solar Array.” Petition at fn. 1. However, it is unquestioned and uncontroversial that states have the inherent authority to regulate those interconnections relating to local distribution or matters that are otherwise wholly retail in nature (e.g., interconnections related to behind the meter generation). And, nothing in Section 58-27-460 as it existed when the current SCGIP was adopted in 2016 referred to the purported exemption for self-consuming facilities that BATO now claims.<sup>2</sup> Neither does the current version of Section 58-27-460 provide for such an exemption for self-consuming facilities, and BATO has not pointed to any language providing such an exemption.

In 2019, the South Carolina General Assembly required the Commission to establish a proceeding for the purpose of considering revisions to the SCGIP. S.C. Code Ann. § 58-27-460(A)(2) (Supp. 2019). Although that proceeding is ongoing, the SCGIP as approved in 2016 has not yet been amended and remains the law of South Carolina. See Docket No. 2019-326-E.

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<sup>2</sup> Specifically, the prior version of Section 58-27-460(A) provided as follows:

The commission shall promulgate standards for interconnection of renewable energy facilities and other nonutility-owned generation with a generation capacity of two thousand kilowatts (2,000 kW AC) or less to an electrical utility’s distribution system.

S.C. Code Ann. § 58-27-460(A) (2015).

**2. If the Commission determines that the SCGIP applies, no waiver should be granted.**

Should the Commission agree with DESC that the SCGIP applies to the interconnection of the Solar Array, DESC opposes BATO's request for a blanket waiver of the SCGIP. For the reasons previously stated, the interconnection and parallel operation of an almost 2 MW system that will be electrically connected to the DESC system must be subject to study and review by the utility to which it will be connected. The Solar Array has the potential to impact the DESC system for so long as BATO's Aiken County Plant itself is connected to the DESC system. At most any waiver granted by the Commission should only waive the queueing requirements of the SCGIP and allow DESC to study BATO "out of order."

Generally, DESC opposes waivers of the SCGIP. By allowing certain parties to "jump ahead" of other solar developers in the queue, the waiver adds complexity to the administration of the queue and study processes.

Moreover, in 2019, the South Carolina General Assembly required the Commission to establish proceedings for the purpose of "considering revisions" to the SCGIP. S.C. Code Ann. § 58-27-460(A)(2). Those proceedings are ongoing in Docket No. 2019-326-E, and BATO filed a Petition to Intervene in this docket on February 14, 2020. This proceeding, in which revisions will be made to the SCGIP, is the appropriate mechanism for BATO to address its concerns and ensure that all parties who wish to interconnect to DESC's system are treated in a fair and nondiscriminatory manner.

**3. If the Commission determines that the SCGIP does not apply, the Solar Array is subject to FERC jurisdiction, and the Commission may not order DESC to allow operation of the Solar Array.**

Should the Commission determine that the interconnection and parallel operation of the Solar Array is not state jurisdictional and that the SCGIP does not apply, the Commission would be without authority to order DESC to allow the Solar Array to operate because federal jurisdiction and the interconnection procedures administered by the FERC would apply.

BATO suggests that it is not subject to FERC jurisdiction because "electricity generated from the Solar Array [will be] consumed exclusively by BATO." Petition at ¶7. Although the question of federal jurisdiction—should the Commission determine that the interconnection and parallel operation of the Solar Array is not state jurisdictional—is one that can only be answered by FERC, the Company takes this opportunity to explain why the BATO's argument is simply wrong.

Although BATO points to no legal basis for its assertion that FERC has no authority over the interconnection and parallel operation of the Solar Array because the energy generated will be consumed entirely by BATO, it presumably relies on 16 U.S.C. 824(b), which provides in part:

The [Federal Energy Regulatory] Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this subchapter and subchapter III of this chapter, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

16 U.S.C. 824(b).

BATO's reliance on this statute is misplaced. That FERC states that it does not have jurisdiction over "facilities used for the generation of electric energy . . . or over facilities for the transmission of electric energy consumed wholly by the transmitter" is wholly irrelevant because it is not the BATO facilities but the DESC facilities—and the interconnection to the DESC facilities—over which the FERC has jurisdiction. Again, because BATO's Aiken County Plant is interconnected to the DESC system, its proposed system will operate in parallel with the DESC system and has the potential to impact the DESC system. In the absence of state jurisdiction, federal jurisdiction applies.

That this is so is a fundamental tenet of energy law. FERC Order No. 888, et al., required that transmission providers establish non-discriminatory generator interconnection procedures in their open access transmission tariffs (OATT), and in Order Nos. 2003 and 2006 the FERC established standard procedures for the interconnection of both large and small generators. As the transmission provider, DESC has an obligation to ensure the safety and reliability of its transmission system, while allowing others to interconnect to its system on a non-discriminatory basis. The large and small generator interconnection procedures found in DESC's OATT are the avenue by which DESC ensures both the safety and reliability, as well as the non-discriminatory interconnection process noted above. In cases where a state interconnection process does not apply, for whatever reason, the processes found in DESC's OATT would apply in order that DESC may protect the safety and reliability of its system.



### Conclusion

In short, the interconnection and parallel operation of BATO's almost 2 MW Solar Array, which will be electrically connected to and have the potential to impact the DESC system, must be subject to state or federal interconnection procedures. If the Commission agrees with DESC that the Solar Array is state jurisdictional and that the SCGIP applies, DESC objects to the request for a waiver of the SCGIP provisions for the reasons stated in Section 2 above. However, to the extent the Commission elects to grant a waiver, the waiver should be limited to only the queueing requirements such that DESC could study the interconnection and parallel operation outside of the normal queue process to which other developers are subject. On the other hand, if the Commission finds that the Solar Array is not state jurisdictional and that the SCGIP does not apply, the FERC interconnection procedures will control.

We are providing a copy of this letter to counsel for BATO and the South Carolina Office of Regulatory Staff.

If you have any questions, please advise.

Very truly yours,



Matthew W. Gissendanner

MWG/kms

cc: Scott Elliott, Esquire  
Jeffrey M. Nelson, Esquire  
Dawn Hipp  
(all via electronic mail and U.S. First Class mail)